

### **REMARKS**

Claims 1-20 were pending prior to this amendment.

In the office action that was mailed January 23, 2008, claims 1-3 and 15-16 were finally rejected under 35 U.S.C. §102(e) as being anticipated by U.S. patent 7,164,912 to Buckley. Claims 4-14 and 17-20 were rejected under §103(a) as being unpatentable over the combination of Buckley '912 and U.S. pre-grant publication 2005/0020270, also by Buckley.

Claim 4 depended from claim 1. Claim 17 depended from claim 16; claim 16 depended from independent claim 15. Claim 17 thus depended from claims 15 and 16.

In response to the office action, the limitations of claim 4 have been combined into claim 1. The limitations of dependent claims 16 and 17 have been combined into independent claim 15. Claims 4, 16 and 17 have been canceled without prejudice. Since this amendment only cancels claims and changes the form of the remaining claims, this amendment is properly entered under 37 USC 1.116. The remaining claims should be allowed to issue for the following reasons.

As set forth above and as can be seen in the office action, claims 4 and 17 were rejected under 35 U.S.C §103(a) as being unpatentable over US patent 7,164,912 to Buckley in view of US pre-grant publication 2005/0020270, which is also by Buckley. The instant application and both of the Buckley references cited against claims 4 and 17 were, at the time the invention of this application was made, owned by Research In Motion Limited (RIM) of Waterloo, Canada or were subject to an obligation to assign them to RIM. Under §103(c), a reference cannot be relied upon to reject a claim as being obvious if the reference qualifies as prior art only under one of 35 U.S.C. §102(d), (e) or (f). In this case, the secondary reference (US pre-grant publication 2005/0020270) is believed to qualify as prior art only under 35 U.S.C. §102(e) because the inventors of this application are different from the inventors of the secondary reference and the secondary references has an effective filing date prior to the instant application but was not

Application No. 10/782,718  
Amendment dated August 25, 2008  
Reply to Office Action of July 10, 2008

published until after the instant application's filing date. Under 35 U.S.C. §103(c) the secondary reference cannot be cited against the pending claims. Claims 1 and 15, which now include the limitations of claims 4 and 15-16 respectively, traverse the rejections that were made in the office action and are now in condition for allowance. Reconsideration of the pending claims is respectfully requested.

Respectfully submitted,

/Robert H. Kelly/

---

Robert H. Kelly  
Registration No. 33,922

KELLY & KRAUSE, L.P.  
6600 LBJ Freeway, Suite 275  
Dallas, Texas 75240  
Telephone: (214) 446-6684  
Fax: (214) 446-6692  
[robert.kelly@kelly-krause.com](mailto:robert.kelly@kelly-krause.com)